

RIGRODSKY & LONG, P.A.

Attorneys at Law

www.rigrodskylong.com

Seth D. Rigrodsky
Admitted in DE, NY

Joseph Russello
Admitted in NY

Brian D. Long
Admitted in DE, PA

Mark S. Reich
Admitted in NY, NJ

March 6, 2009

VIA ELECTRONIC CASE FILING

The Honorable Jack B. Weinstein, U.S.D.J.
United States Courthouse
United States District Court
For the Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Koschitzki v. Apple Inc., et al.*, Case No. 1:08-cv-4451-JBW-VVP

Dear Judge Weinstein:

This firm represents Plaintiff Avi Koschitzki in this matter.

I respectfully submit this letter in response to the letter motion submitted by defendant Apple Inc. (“Apple”) this afternoon, in which Apple asked Your Honor to stay this action or adjourn the oral argument on all pending motions, and in connection with Your Honor’s decision to grant such stay.

The timing of Apple’s request is suspect and, in effect, prejudices Plaintiff and us (as his counsel) in light of the extensive time and effort that we have dedicated to briefing the motions and preparing for next week’s oral argument, which was scheduled for Friday, March 13, 2008. Two weeks ago, during the February 20, 2009 conference before Your Honor, counsel for Apple remained silent as to the prospect of requesting a transfer of this action to the Judicial Panel on Multidistrict Litigation (“MDL”). Indeed, the Court questioned whether an MDL proceeding would be sought by the parties. At that time, counsel for Apple gave no indication that it would make such request, nor did she indicate that it would seek a stay or adjournment of the scheduled oral argument. Nevertheless, after allowing Plaintiff’s counsel to commit extensive resources to brief the six pending motions and to litigate issues associated with them, and only days before the scheduled oral argument on all such motions, Apple made such request, which the Court granted before Plaintiff could respond.

Under the circumstances, we respectfully request that the Court schedule a teleconference next week to address these issues in further detail, which we stand ready to initiate at the Court’s convenience.

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We thank the Court for its time and attention to our request, which we have endeavored to place before Your Honor as expeditiously as possible under the circumstances.

Respectfully submitted,



Mark Reich

MSR/ch
cc: All Counsel of Record (via ECF)